

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

WILLIAM RUSSEL ESTY,

Plaintiff,

v.

HSBC AUTO FINANCE, et al.,

Defendants.

CIVIL ACTION NO. 3:09-cv-0248

(JUDGE CAPUTO)

**MEMORANDUM ORDER**

Presently before the Court is Plaintiff William Russel Esty's Petition for Emergency Temporary Restraining Order, Injunction, and Other Relief. (Doc. 6.) In this petition, Plaintiff asks the Court for an emergency temporary restraining order and further injunctive relief to prevent Defendant HSBC Auto Finance from selling his repossessed automobile pending the outcome of Plaintiff's suit against it for violation of the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*, in relation to the purchase of the automobile. He alleges that Defendant seeks to sell the car on or about February 20, 2009.

Federal Rule of Civil Procedure 65(b) allows a court to issue an emergency *ex parte* temporary restraining order, but requires that, *inter alia*, a movant provide "specific facts in an affidavit or a verified complaint clearly show[ing] that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition[.]" Plaintiff does not make this showing. He submits no affidavit or verified complaint. Moreover, his petition contains only a single conclusory statement regarding irreparable injury: "Plaintiff would show that the harm to be done to him by the sale of the car without having the full opportunity to litigate the claim is irreparable." (Pet. 2, Doc. 6.) This

statement is insufficient to establish any irreparable harm. Plaintiff alleges no facts regarding the nature of the harm that would result from the sale and no indication that the repossessed automobile is in any way unique or irreplaceable. For these reasons, the Court denies his request for a temporary restraining order.

**NOW**, this 19<sup>th</sup> day of February, 2009, **IT IS HEREBY ORDERED THAT**

Plaintiff's petition for a temporary restraining order, contained in his Petition for Emergency Temporary Restraining Order, Injunction, and Other Relief (Doc. 6) is

**DENIED**. A hearing on Plaintiff's request for a preliminary injunction will be held before the Honorable James M. Munley on **MONDAY, March 2, 2009 at 1:30pm in Courtroom #3, William J. Nealon Federal Building & United States Courthouse, 235 N. Washington Ave., Scranton, Pennsylvania.**

**IT IS FURTHER ORDERED THAT** the Clerk of Court shall, by certified mail, return receipt, serve a copy of this Memorandum Order on Defendants at the addresses given in Plaintiff's Complaint:

(1) HSBC Auto Finance  
5585 Copley Dr.  
San Diego, CA 92111

(2) HSBC Auto Credit Inc.  
6602 Convoy Ct.  
San Diego, CA 92111

(3) Financial Adjusters  
1634 McCarthur Rd.  
Whitehall, PA 18052

(4) Director Felicia Straub  
1634 McCarthur Rd.  
Whitehall, PA 18052



A. Richard Caputo  
United States District Judge